REMARKS

I. Introduction

Claims 1 to 37 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 1 to 12, 15 to 17, 18 to 29 and 32 to 36 Under 35 U.S.C. § 103(a)

Claims 1 to 12, 15 to 17, 18 to 29 and 32 to 36 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of pages 1 to 12 of the AXIS 2100 White Paper entitled Network Camera Developments Enable Live Web Imaging ("AXIS"), U.S. Patent No. 5,907,681 ("Bates et al."), U.S. Patent No. 6,470,386 ("Combar et al.") and U.S. Patent Publication No. 2002/0032637 ("Moshal et al."). It is respectfully submitted that the present claims are allowable for at least the following reasons.

As an initial matter, as more fully explained in Applicants' Reply under 37 C.F.R. § 1.116 submitted on July 7, 2005, the subject matter relied upon in the Moshal et al. publication, *i.e.*, the subject matter appearing in paragraph [0046], is not entitled to a filing date prior to the ***January 31, 2001*** filing date of the present application, and therefore paragraph [0046] of the Moshal et al. publication cannot be relied upon for rejecting any claim of the present application. Since the present rejection is plainly based on the combination of AXIS, Bates et al., Combar et al. ***and*** Moshal et al., the present rejection should be withdrawn, since the paragraph of Moshal et al. relied upon does not constitute prior art against the present application.

Notwithstanding the foregoing and to the extent that the present rejection may be considered to be based on the combination of AXIS, Bates et al. and Combar et al. -- which is not necessarily agreed with and contrary to the plainly stated rejection being based on the combination of AXIS, Bates et al., Combar et al. ***and*** Moshal et al. -- it is respectfully submitted that the present rejection should be withdrawn for the following additional reasons.

Claim 1 relates to a method for adaptively setting a data refresh interval, the method including providing a data source, providing a data using means for utilizing data from the data source, the data using means having an initial refresh

interval, providing a communication link between the data source and the data using means, monitoring at least one criteria related to the refresh interval, generating an updated data refresh interval based at least in part on the monitored criteria, ***transferring the updated refresh interval to the data using means,*** and changing the initial data refresh interval of the data using means to the updated data refresh interval.

As admitted on page 2 of the Final Office Action, the combination of AXIS and Bates et al. does not disclose, or even suggest, transferring an updated refresh interval to a data using means, as recited in claim 1. Likewise, it is respectfully submitted that Combar et al. do not disclose these recited features. In particular, Combar et al. relate to a web-based monitoring system, which provides real-time viewing of telecommunication network traffic and statistical data pertaining to a customer's telecommunications network. See Abstract. The monitoring system includes a client browser application located at a customer workstation, a device for generating statistical data based on call data obtained from a telecommunications network, a mechanism to periodically retrieve the statistical data according to pre-defined polling intervals and integrate the retrieved statistical data within a Web page for presentation to the user over a secure connection at the pre-defined polling intervals. See Col. 1, lines 55 to 67. Accordingly, the Web page is updated continuously to include the latest generated statistical data at each polling interval. See Col. 2, lines 1 to 2. In this regard, the polling interval is specified in a user profile, which is generated at the customer workstation and communicated over the secure socket connection ***to the retrieving means***. Hence, the polling interval is not transferred to a means that uses the data but rather to a means that only retrieves the data. That is, the polling interval is transferred to a mechanism that periodically retrieves data but does not use it. Accordingly, Combar et al. do not disclose, or even suggest, transferring an updated refresh interval to a data using means, as recited in claim 1.

As regard the contention that Bates et al. disclose at col. 3, line 51 to col. 4, line 15 "monitoring at least one criteria related to the refresh interval," Applicants respectfully disagree. In this regard, the cited portion of Bates et al. merely mentions that the method "determines" or "computes" that a particular site changes according to the provider's schedule. Furthermore, the schedule can be manually overwritten. Thus, according to Bates et al., there is no "monitoring" of a

criteria related to a refresh interval and, consequently, no generating of an updated data refresh interval based at least in part on monitored criteria.

Accordingly, AXIS, Bates et al. and Combar et al., either taken individually or in combination, do not disclose or suggest all of the features of claim 1. Therefore, claim 1, as well as claims that depend from claim 1, including claims 1 to 12 and 15 to 17, are allowable over these cited references.

Claims 18, 32, 35 and 36 include features analogous to features included claim 1. Therefore claims 18, 32, 35 and 36, as well as their dependent claims, including claims 19 to 29 and 33 to 34, are allowable for essentially the same reasons as more fully set forth above.

As further regards the obviousness rejections, to reject a claim as obvious under 35 U.S.C. § 103, the prior art must not only disclose or suggest each claim feature, but it must also provide a motivation or suggestion for combining the features in the manner contemplated by the claim. (See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990)). The cases of In re Fine, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988), and In re Jones, 21 U.S.P.Q.2d 1941 (Fed. Cir. 1992), make plain that if the Office Action reflects a subjective "obvious to try" standard, it does not reflect the proper evidence to support an obviousness rejection based on the references relied upon. In this regard, the assertion that "by transferring the updated refresh interval to the browser they would have facilitated more efficiently information transfer regarding the data refresh interval" is clearly improper. Accordingly, Applicants respectfully submit that the Final Office Action has not provided the proper evidence to show why there is a suggestion to combine the references so as to provide the subject matter of the claims and its benefits.

In view of the foregoing, it is respectfully submitted that claims 1 to 12, 15 to 17, 18 to 29 and 32 to 36 are allowable, and withdrawal of this rejection is respectfully requested.

III. Rejection of Claims 13, 14, 30 and 31 under 35 U.S.C. 103(a)

Claims 13, 14, 30 and 31 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of AXIS, Bates et al., Combar et al., Moshal et al., and U.S. Patent No. 6,138,150 ("Nichols et al."). Applicants respectfully submit

that the combination of AXIS, Bates et al, Combar et al., Moshal et al., and Nichols et al. does not render unpatentable these claims for at least the following reasons.

As explained above, Moshal et al. cannot be relied upon for rejecting any claim of the present application. Since the present rejection is plainly based on the combination of AXIS, Bates et al., Combar et al., Moshal et al. and Nichols et al., it is respectfully submitted that the present rejection should be withdrawn.

Notwithstanding the foregoing and to the extent that the present rejection may be considered to be based on the combination of AXIS, Bates et al., Combar et al. and Nichols et al. -- which is not necessarily agreed with and contrary to the plainly stated rejection being based on the combination of AXIS, Bates et al., Combar et al., Moshal et al. ***and*** Nichols et al. -- it is respectfully submitted that the present rejection should be withdrawn for the following additional reasons.

In this regard, claims 13 and 14 ultimately depend from claim 1, and claims 30 and 31 ultimately depend from claim 18. As more fully set forth above, the combination of AXIS, Bates et al. and Combar et al. does not render unpatentable claim 1 or claim 18. The Final Office Action's assertions with respect to Nichols et al. do not cure the above-noted deficiencies of AXIS, Bates et al., and Combar et al. That is, Nichols et al. do not disclose, or even suggest, the features of claim 1 or claim 18 not disclosed or suggested by AXIS, Bates et al. and Combar et al. Accordingly, it is respectfully submitted that the combination of AXIS, Bates et al., Combar et al. and Nichols et al. does not render unpatentable claims 13 and 14, which ultimately depend from claim 1, or claims 30 and 31, which ultimately depend from claim 18.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

IV. New Claims 37 and 38

New claims 37 and 38 have been added herein. It is respectfully submitted that new claims 37 and 38 add no new matter and are fully supported by the present application, including the Specification. Since claims 37 and 38 include features essentially analogous to features included in claim 1, it is respectfully submitted that new claims 37 and 38 are patentable over the references relied upon for at least the same reasons more fully set forth above in support of the patentability of claim 1.

V. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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